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Attorneys for U.S. Bank National Association

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

EUGENE DIVISION

LAWRENCE JAMES SACCATO,

Plaintiff Pro Se,

Case No. 6:10-cv-06244-HO

v.

DAVIS LAW FIRM,

Defendant,

DEFENDANT U.S. BANK NATIONAL
ASSOCIATION'S ANSWER AND
AFFIRMATIVE DEFENSES

U.S. BANK NATIONAL ASSOCIATION

N.D., Co-Defendant.

DOES 1 THROUGH 10.

Defendant U.S. Bank National Association ("U.S. Bank") answers plaintiffs' Amended
Complaint as follows:

1.

U.S. Bank denies the allegations stated in paragraph 1 of the Amended Complaint.

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2.

DEFENDANT U.S. BANK'S ANSWER AND
AFFIRMATIVE DEFENSES

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With respect to paragraphs 2 and 3 of the Amended Complaint, plaintiff purports to “restate,” “reiterate,” and “strike” certain paragraphs of his original Complaint which this court dismissed on February 11, 2011. To the extent an answer to allegations not expressly stated in plaintiff’s Amended Complaint is required, U.S. Bank denies the allegations.

3.

With respect to paragraph 4 of the Amended Complaint, U.S. Bank admits that it is a furnisher of information within the meaning of the Fair Credit Reporting Act (“FCRA”) and regularly furnishes information to credit reporting agencies but denies the remainder of the allegations of paragraph 4.

4.

With respect to paragraph 5 of the Amended Complaint, U.S. Bank is without sufficient information or knowledge to admit or deny the allegations.

5.

U.S. Bank denies the allegations in paragraphs 5 through 8 (including Plaintiff’s “Summation”) of the Amended Complaint.

AFFIRMATIVE DEFENSES

6.

First Affirmative Defense – Failure to State a Claim

Each of plaintiff’s claims for relief fails to state a claim upon which relief can be granted.

Second Affirmative Defense – Reasonable Investigation

With respect to plaintiff’s claim under FCRA, at all times, U.S. Bank timely conducted a reasonable investigation upon notice of any alleged dispute.

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Third Affirmative Defense – Failure to Mitigate

To the extent plaintiff has suffered any damages, plaintiff's claims for relief are barred, in whole or in part, because plaintiff failed to mitigate his damages.

Fourth Affirmative Defense – Bona Fide Error

Plaintiff's claims are barred, in whole or in part, because any alleged wrongful conduct on the part of U.S. Bank, which is assumed only for purposes of this affirmative defense, was unintentional and resulted from a bona fide error.

Additional Affirmative Defenses

U.S. Bank reserves the right to assert additional affirmatives as discovery proceeds in this action, or after the close of discovery.

Dated: March 7, 2011.

LARKINS VACURA LLP

/s/ Christopher J. Kayser

Christopher J. Kayser OSB #984244

Danielle J. Hunsaker, OSB #045365

Attorneys for U.S. Bank National Association

CERTIFICATE OF SERVICE

I am over the age of 18 and am not a party to the within action. I am employed in Multnomah County, State of Oregon, and my business address is 621 SW Morrison St., Suite 1450, Portland, Oregon 97205.

On March 7, 2011, I served the following document(s):

DEFENDANT U.S. BANK NATIONAL ASSOCIATION'S ANSWER AND AFFIRMATIVE DEFENSES

on the party or parties listed on the following page(s) in the following manner(s):

☐ **BY HAND DELIVERY:** For each party, I caused a copy of the document(s) to be placed in a sealed envelope and caused such envelope to be delivered by messenger to the street address(es) indicated on the attached service list.

☐ **BY FEDERAL EXPRESS:** For each party, I caused a copy of the document(s) to be placed in a sealed envelope and caused such envelope to be delivered by Federal Express to the street address(es) indicated on the attached service list.

☒ **BY FIRST-CLASS MAIL:** For each party, I caused a copy of the document(s) to be placed in a sealed envelope and caused such envelope to be deposited in the United States mail at Portland, Oregon, with first-class postage thereon fully prepaid and addressed to the street address(es) indicated on the attached service list.

☐ **BY FACSIMILE:** For each party, I caused a copy of the document(s) to be sent by facsimile to the facsimile number(s) indicated on the attached service list. If this action is pending in Oregon state court, then printed confirmation of receipt of the facsimile generated by the transmitting machine is attached hereto.

☐ **BY E-MAIL:** For each party, I caused a copy of the document(s) to be sent by electronic mail to the e-mail address(es) indicated on the attached service list. If this action is pending in Oregon state court, then I received confirmation that the e-mail was received.

☒ **BY ECF:** For each party, I caused a copy of the document(s) to be sent by electronic mail via ECF to the e-mail address(es) indicated on the attached service list.

I declare under penalty of perjury under the laws of the State of Oregon that the foregoing is true and correct.

/s/ Christopher J. Kayser
Christopher J. Kayser

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